



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 26, 1996

Mr. Ron M. Pigott
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773

OR96-0236

Dear Mr. Pigott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38606.

The Texas Department of Public Safety (the "department") has received a request for records of an investigation into "the shooting, assault and theft of John C. and Pamela A. Robinson." You have submitted a representative sample of the requested records for our review and contend that section 552.108 excepts the information from required public disclosure because the investigation is still ongoing.

Section 552.108(a) excepts from disclosure "a record of a law enforcement agency or prosecutor that deals with the detection, investigation, and prosecution of crime." In an open criminal case, section 552.108 exempts from disclosure all information except that normally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." Open Records Decision No. 553 (1990) at 4 (and cases cited therein).

We have examined the records submitted for our review. We note that Texas law provides that the examinee of a polygraph examination has a special right of access to the results of his or her polygraph examination. V.T.C.S. art. 4413(29cc), § 19A(c)(1). Therefore, the department must disclose Mrs. Robinson's polygraph examination results to her. The department must withhold any other polygraph examination results. *Id.* § 19(A). Furthermore, except for front page offense report information and Mrs.

Robinson's polygraph examination results, you may withhold the requested information under section 552.108 of the Government Code.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/ch

Ref.: ID# 38606

Enclosures: Submitted documents

cc: Mr. John Robinson
Ms. Pamela Robinson
540 Christi Lane
Coppell, Texas 75019
(w/o enclosures)

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.